



OUTLEASING PROGRAM

*New Opportunities under the Revised
Military Leasing Act*

27 March 2001



Real Estate Contracting Authority

- Navy regulations give ASN (I & E) responsibility to acquire, OUTGRANT, and dispose of Real Estate and facilities for the Navy.
- SECNAVINST 11011.47 delegates ASN (I & E)'s general leasing authority to NAVFACENGCOM under direction of CNO and CMC.
- NAVFAC P-73 (Real Estate Procedural Manual) redelegates the authority to the EFD/EFA's for execution by appropriately trained and warranted Real Estate Contracting Officers.



ROLES

- INSTALLATION / REGION: identifies requirements, requests Real Estate services, budgets for project costs and holds plant account.
- EFD/EFA: executes RE projects, liaisons with Navy installation, administers RE Contracts.
- NAVFACENGCOM: provides RE policy, obtains project approvals as required from CNO, ASN, DoD and Congress.



EFA NORTHEAST TEAM

- CAPT Joe Zorica - Commanding Officer
- CDR Bob Morro - Operations Officer
- Mr. Jim Root - New England Team Leader
- Mr. Ralph Lombardo, Esq. - Counsel
- Mr. Gregory Preston - Level III (unlimited) Real Estate Contracting Officer



Military Leasing Act

(Title 10 United States Code section 2667)

- Statutory authority for leasing of DON real property
- Provides direction on structure and form of Lease
- Provides direction on collection and use of proceeds
- Expanded and revised by section 2812 of the Defense Authorization Act for FY01 (U.S.P.L 106-398)



Military Leasing Act (Unaffected Principles)

- FY01 amendment retained certain principles and limitations from the original act:
 - applies to property under the control of the Department.
 - applies only to property that is not excess.
 - may not exceed 5 years (unless authorized by SECNAV).
 - May provide for first right to buy.
 - Shall provide for the right to revoke (unless waived by SECNAV).
 - Consideration (either cash or in kind) must be in an amount no less than fair market value of the lease interest.
 - Competition
 - McKinney Act (homeless provider screening)



Military Leasing Act (major revisions)

- Significant revisions include:
 - Expansion of in-kind consideration allowed
 - Type
 - Location
 - Flexibility and Procedural Relief
 - Expansion of the Use of Cash Proceeds
 - Depositing Proceeds
 - Procedural limitations
 - Annual Report



Change in pre-Lease determination

- The Secretary no longer needs to make a preliminary determination the parcel to be leased is "**not for the time needed**" by the department.
- This allows the installation to relocate an activity or mission to make land available for outlease purposes



Expanded Definition of In-Kind Consideration

- While rent received must equate to at least Fair Rental value, it may be accepted in all or part "In-Kind".
- In-Kind consideration may now include:
 - Maintenance, repair, improvement, Environmental Restoration.
 - Construction of new facilities
 - Provision of facilities for use by Navy
 - Facility operation support
 - Utilities
 - Provision of services related to activities that will occur on leased properties



Expansion of In-Kind Consideration - Location

- In-Kind consideration can now be accepted for or to service any part of the installation (even if a substantial part of the installation is not part of the lease) or to any property or facility under the control of the Secretary.
- Allows Navy to lease property at one installation in exchange for an In-Kind benefit to another installation anywhere in Navy's inventory.



Expansion of In-Kind Consideration Flexibility and Procedural Relief

- Statutory Military Construction Authorization requirements (*section 2802*):
 - Do not apply to In-Kind consideration accepted under this section
- Real property transaction notification requirements (*section 2662*):
 - Do not apply.
 - 30-day congressional notification required prior to any commitment to accept In-Kind consideration in excess of \$500,000.00



Expansion of the Use of Cash Proceeds

- All rental proceeds are deposited into a special Treasury Account for use by the Secretary as follows:
 - 50% may be made available to the installation from which the proceeds were derived.
 - For acquisition of the same type of facilities or services described as "In-Kind"
- *EXCEPTIONS:*
 - Funds collected from BRAC leases deposit to BRAC account, utility service charges to utility account and agriculture outleases to an account established to administer lease



Procedural Limitations on Use of Cash Proceeds

- While such use of proceeds is available to the Secretary:
 - The amended legislation requires that the amount to be used is limited by specific appropriation Act (congressional authorization is needed for each acquisition).
 - Congressional notice is required prior to any use of proceeds in excess of \$500,000.00 at a single installation.



Annual Report

DoD is to provide a detailed report to Congress on the executed leases along with an accounting of the consideration received and how used.



THE PROCESS

Installation Role

- Identifies requirement/deficiency.
- Identifies asset for potential out-lease.
 - BE CAREFUL: Must continue to consider underlying requirement for the property to justify its retention.
- In consultation with Claimant/Region, consider long term impact(s) of private use and determines length of time asset can be made available.
- Considers security, utility connections and other site specific base-wide concerns.
- Submits request via (1) NE Region and (2) CINCLANTFLT to EFA Northeast.



THE PROCESS

EFA Northeast Role

- Conduct Economic/Feasibility Analysis.
- Review of Competition Requirements.
- Fair Market Value Appraisal of Real Estate Interest. *
 - Provides baseline for “in-kind” consideration.
- Environmental review. (EBS/FOSL). *
- Site Approval (Needs coordination between EFA Northeast/Activity/NE Region). *
- NEPA and Historic/Cultural Resource Issues. *
- Other Items (can include installation review costs). *

* administrative expense that requires recoupment.



THE PROCESS

EFA Northeast - cont'd

- Initiates formal negotiations after completion/approval of FMV appraisal (approx. 75 - 90 day process)
 - While appraisal being completed concurrent actions can include:
 - Environmental site characterization/documentation
 - Environmental Planning
 - Site specific issues
 - RFP/IFB development
- Establishes the Navy Negotiating Team
 - Warranted Real Estate Contracting Officer
 - Real Estate Counsel
 - Technical Support (from Installation, Region, Claimant, etc.)



Approval Process

- Upon successful completion of negotiations, EFA Northeast forwards proposed lease to ASN (I&E) for approval via COMNAVFACENGCOM and CNO



QUESTIONS